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CASES AND MATERIALS ON

COMMERCIAL AND CONSUMER TRANSACTIONS

edited by

JACOB S. ZIEGEL
Professor of Law
Osgoode Hall Law School

FIFTH EDITION

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PREFACE TO THE FOURTH (1974-75) EDITION

A substantial number of changes have been made in this edition of the casebook, almost all of them made necessary by the continuing pace of legislative and judicial developments, particularly in the consumer area. However, the basic format and structure of the casebook has been left intact.

Among the more important changes are the following. Bill 55, the Ontario Business Practices Bill, which is expected to receive second reading in the fall, has been added to the materials in the appendix, and frequent references to its provisions and those in the companion B.C. Trade Practices Act have been sprinkled throughout the volume. The potential importance of this legislative development can hardly be exaggerated and will require on the part of Canadian law teachers a basic reassessment of traditional contract doctrines and legislative techniques of coping with abuses in the marketplace.

The class action materials have been updated and revised in the light of the U.S. Supreme Court's decision in the Eisen case. The section on consumer reporting legislation has been revised to reflect the adoption of the Ontario Act and other provincial acts. Most of the materials which appeared in last year's Supplementary Volume have been incorporated in the principal text. Finally, a large number of introductory and supplementary notes have been added in the hope that they will enable the student to obtain a better perspective of the materials in each chapter. As in previous years, the reproduction of statutory provisions has been kept to a minimum because the students are extected to procure their own copy of the Students' Edition of the CCH Sales and Credit Law Guide.

To offset the additions some materials have been deleted. This has been the fate of the materials on prize promotions and pyramiding schemes in ch.III and the FTC's decision in the Household Sewing Machine Co. case. In re Wait has been further pruned in the interests of space.

The complexities of modern sales law are such that it taxes the energies and ingenuity of teachers and students to thread their way successfully through the overabundance of material. I confess in darker moments I entertain some doubts about the wisdom of trying to combine commercial and consumer law aspects in the same course.

But on reflection I remain convinced that the original decision was pedagogically and functionally sound for the reasons explained in the preface to the first edition. The teacher is of course free to omit such portions as he deems immaterial for his purposes and to develop in greater depth those portions which he regards as more important. No doubt a persuasive case can be made for introducing consumer law as a separate basic course, but I am not aware of any Canadian school that has taken this step and, given the exigencies of the law school timetable, I do not anticipate an early change in this direction.

I am particularly grateful to Eric Gertner, LL.B.III, for his assistance in the preparation of this edition and the Department of Justice in Ottawa for making funds available for the employment of his services.

August, 1974

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Treatises and Reports

ATIYAH	The Sale of Goods, 4th ed. (1971)
BENJAMIN	Benjamin's Sale of Goods, 1st ed., 1974 (A.G.Guest, ed.)
BOGERT, BRITTON & HAWKLAND	Cases and Materials on Sales and Security, 4th ed.
BOULTON	The Making of Business Contracts (1965)
CCH CANADIAN	Canadian Sales & Credit Law Guide (loose leaf, 2 vols.)
CCH (U.S.)	Instalment Credit Guide (loose leaf, 2 vols.)
CROWTHER	Report of the Committee on Consumer Credit (London, 1971)
FALCONBRIDGE	Banking & Bills of Exchange, 7th ed.
FRIDMAN	Sale of Goods (1966)
FRIDMAN	Sale of Goods in Canada (1973)
GOODE & ZIEGEL	Hire-Purchase and Conditional Sale: A Comparative Study (1965)
HONNOLD	Cases and Materials on Sales and Sales Financing, 2nd ed.
NEILSON	Consumer and the Law in Canada (1970)
OLRC Report	Ontario Law Reform Commission, Report on Consumer Warranties and Guarantees (August 1972)
SUTTON	The Law of Sale of Goods in Australia and New Zealand (1967)
WILLISTON	Williston on Sales (Revised ed., 4 vols.)
ZIEGEL & FOSTER	Aspects of Comparative Commercial Law (Montreal, 1969)

(N.B.) The above volumes will be kept on reserve)

Statutes

ABDA	Assignment of Book Debts Act, R.S.O. 1970, c.33, as am.
B.o.E.	Bills of Exchange Act (Can.), as amended 1970
B.o.S.	Bills of Sale & Chattel Mortgage Act, R.S.O. 1970 c.45, as am.
C.P.A.	Consumer Protection Act, R.S.O. 1970, c.82 as am.
C.S.A.	Conditional Sales Act, R.S.O. 1970, as am.
Factors Act	R.S.O. 1970, c.156
P.P.S.A.	Personal Property Security Act, R.S.O. 1970, c.344
S.G.A.	Sale of Goods Act, R.S.O. 1970, c.421
U.C.C.	Uniform Commercial Code (1972 Official Text)
U.C.C.C.	Uniform Consumer Credit Code (U.S.)
U.P.P.S.A.	Model Uniform Personal Property Security Act (Can.)

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